CHARITIES—LIABILITY OF A CHARITABLE INSTITUTION FOR TORTS.—In an action for injuries to a patient in a hospital caused by the carelessness of a nurse, the question was whether a charitable institution is liable for the negligent acts of its servants when it has failed to use due care in the selection thereof. *Held,* such an institution is liable when it fails to exercise due care in the selection of its servants. *Taylor v. The Flower Deaconess Home and Hospital* (Ohio, 1922), 135 N. E. 287.

Upon the question of the liability of a charitable institution for torts, the courts are in conflict, there being at least three lines of authority. Some courts hold that funds donated for a charitable purpose cannot be diverted to the payment of judgments for torts. *Parks v. Northwestern University,* 218 Ill. 381. *Downes v. Harper Hospital,* 101 Mich. 555; *Abston v. Waldon Academy,* 118 Tenn. 24. This doctrine is based upon public policy, the theory being that if trust funds may be so diverted the trust may be destroyed, thus discouraging the creation of charities. However, the courts which hold to this broad doctrine have not been entirely satisfied with it, and in difficult cases have been adroit in making distinctions and in limiting its scope. With *Abston v. Waldon Academy,* 118 Tenn. 24, compare *Gamble v. Vanderbilt University,* 138 Tenn. 616, and *Love v. Nashville Agricultural and Normal Institute* (Tenn., 1922), 243 S. W. 304 (a charitable institution held liable for maintaining a nuisance). Some courts hold that a person by accepting the benefits of a charity waives all claims to damages. *Thomas v. German General Benevolent Society,* 168 Cal. 183; *Powers v. Massachusetts Homeopathic Hospital,* 109 Fed. 294. This rule is usually based upon implied contract, but seems to be justified more appropriately upon the grounds of public policy. Finally, many courts hold that a public charity is not liable for the negligence of a servant in whose selection it has used due care. *McDonald v. Massachusetts General Hospital,* 120 Mass. 432; *Morrison v. Henke,* 165 Wis. 166; *Hearns v. Waterbury Hospital,* 66 Conn. 98. The basis of the rule is public policy. It is for the public good that charities should be exempt from the operation of the rule of *respondeat superior.* The courts are irreconcilable and give little help in the correct determination of the question. However, the trust fund doctrine seems the least justifiable. No person is bound to undertake a charitable mission, yet, having done so, is it not just that the undertaking be discharged with due care and diligence; and for failure to do so should not a charitable institution be just as liable for its neglect as a private individual?

CONTRACTS—COVENANT NOT TO COMPETE.—Defendant in the sale of her business covenanted not to engage in competitive business "within an area of at least ten city blocks." A like store, alleged to be owned by defendant, was opened three and a half blocks away. *Held,* bill to restrain breach of the covenant should be dismissed for lack of sufficient proof that defendant had any interest in the offending business. "But," said the court, "even if it were satisfactorily shown that defendant was owner of the new store, relief would have to be denied for the want of certainty and definiteness of the covenant." *Messinger v. Franzblau et al.* (N. J.), 118 Atl. 260.